

Exhibit 16

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

UNITED STATES OF AMERICA,)
Plaintiff,) CRIMINAL ACTION
v.) NO. 2:18cr101
DASHAWN WEBSTER,)
Defendant.)

TRANSCRIPT OF PROCEEDINGS
(SENTENCING)
Norfolk, Virginia

December 13, 2018

BEFORE: THE HONORABLE RAYMOND A. JACKSON
United States District Judge

APPEARANCES:

OFFICE OF THE UNITED STATES ATTORNEY
By: Elizabeth M. Yusi, AUSA
Counsel for the Plaintiff

OFFICE OF THE FEDERAL PUBLIC DEFENDER
Keith Loren Kimball, AFPD
By: Wilfredo Bonilla, Jr., AFPD
Counsel for the Defendant

1 P-R-O-C-E-E-D-I-N-G-S

2 (Whereupon, the proceedings commence, 9:59 a.m.)

3 THE CLERK: United States of America versus Dashawn
4 Webster, in Criminal Action 2:18cr101.

5 Ms. Yusi, is the government ready to proceed?

6 MS. YUSI: The government's ready.

7 Good morning, Your Honor.

8 THE COURT: Good morning, Ms. Yusi.

9 THE CLERK: Mr. Bonilla, is the defendant ready to
10 proceed?

11 MR. BONILLA: Good morning.

12 Good morning, Your Honor, the defense is ready to
13 proceed.

14 THE COURT: Good morning, Mr. Bonilla.

15 Mr. Webster, morning.

16 THE DEFENDANT: Morning.

17 THE COURT: Have you had an opportunity to speak to
18 your lawyer to prepare for the hearing this morning?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Are you satisfied with the advice and
21 counsel they are giving you?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: All right, you may have a seat.

24 The Court has reviewed the presentations, the
25 position papers filed by each counsel in this case.

1 The Court found no outstanding objections from the
2 United States.

3 Ms. Yusi, is that still the case?

4 MS. YUSI: Yes, sir, Your Honor.

5 THE COURT: You made a motion for the defendant to
6 receive an additional one point for responsibility?

7 MS. YUSI: I did file one.

8 THE COURT: That motion is granted.

9 Mr. Bonilla, the Court, likewise, found no
10 outstanding objection from Mr. Webster.

11 Is that still the case?

12 MR. BONILLA: Yes, Your Honor.

13 THE COURT: All right, then, we will get right to
14 the indication of what the Advisory Guideline Range is.

15 Mr. Webster, if you will stand again.

16 Mr. Webster, the Court finds that you have a
17 Criminal History Category of I, an Offense Level of 48. The
18 advisory guideline is life, but that's restricted to a
19 mandatory minimum of 15 or a cap of 30 years.

20 You may produce witnesses, documents, exhibits this
21 morning to assist the Court in determining what sentence is
22 sufficient but not greater than necessary.

23 If you wish to testify under oath, you may do so.
24 But, if you do, you will be subject to being questioned or
25 cross-examined by Assistant United States Attorney Yusi on

1 this case.

2 If you choose to make an unsworn statement just
3 before the Court sentences you, you will not be
4 cross-examined. You also have a third option; just remain
5 silent and have Mr. Bonilla or Mr. Kimball to handle the
6 closing and argument for you.

7 Do you understand this?

8 THE DEFENDANT: Yes, sir.

9 THE COURT: Now, Mr. Bonilla, are there any
10 witnesses you will be calling?

11 MR. BONILLA: No, Your Honor.

12 THE COURT: Does Mr. Webster wish to make any
13 statement before being sentenced?

14 MR. BONILLA: Yes, Your Honor, he just asked to make
15 an unsworn statement.

16 THE COURT: All right, then, thank you very much.

17 MR. BONILLA: Thank you, Your Honor.

18 THE COURT: Okay, the Court will note a couple of
19 things for the record.

20 The Court has received and read the forensic
21 neuropsychological evaluation on the defendant.

22 By the way, do you wish to -- you have it filed
23 under seal, but do you wish for this to go to the Bureau of
24 Prisons with the defendant?

25 MR. BONILLA: Yes, Your Honor.

P. WOLPERT - DIRECT

5

THE COURT: Okay, we will work that out so that will happen.

The Court has also received a substantial submission here with respect to the victims.

Ms. Yusi, it's kind of repetitive reading, but the Court understands the need for it.

Are there any other exhibits or documents or witnesses you will be presenting?

MS. YUSI: I have one brief witness, Your Honor.

THE COURT: Okay. Then let's call your brief witness.

MS. YUSI: Your Honor, we call Special Agent Paul Wolpert.

PAUL WOLPERT, called by the Government, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MS. YUSI:

Q. Could you introduce yourself to the Court?

A. I'm Paul Wolpert.

Q. How do you spell your last name?

A. W-O-L-P-E-R-T.

Q. Where do you work?

A. I'm a Special Agent with Homeland Security Investigations here in Norfolk.

Q. What do you do there?

P. WOLPERT - DIRECT

6

1 A. I primarily investigate crimes involving child
2 exploitation, as well as I'm a computer forensic examiner.

3 Q. And how long have you been involved with those types of
4 crimes?

5 A. The investigations, since April or February of 2004, and
6 then March of 2006, I became a forensic examiner.

7 Q. Are you the case agent on the investigation and
8 prosecution of Dashawn Webster, the Defendant?

9 A. I am.

10 Q. And you're familiar with the images and the charges that
11 we are here today about?

12 A. Yes.

13 Q. I just want to give some context to the Court, or a
14 little bit more information.

15 Are you familiar with the 2012 FBI investigation that
16 led to Mr. Webster's residence?

17 A. I am.

18 Q. And how did that come about?

19 A. I didn't learn about this until we executed the search
20 warrant this time, but it was apparently a peer-to-peer
21 investigation, where a download was made of a file. I
22 believe it was one file, it wasn't a whole lot.

23 So they decided to conduct what we consider a
24 knock-and-talk interview at the residence to determine if
25 somebody was responsible for the activity on the peer-to-peer

P. WOLPERT - DIRECT

7

1 networks.

2 Q. And this was Mr. Webster's residence in Portsmouth?

3 A. Yes.

4 Q. And at that point was there enough for a search warrant?

5 A. No.

6 Q. Who was at the residence when law enforcement went there?

7 A. I don't know everyone. I only know by the interview that
8 was conducted with Mr. Webster's mother during our search
9 that she was at least there.

10 Q. Okay, and did law enforcement check the computers that
11 were located at that time?

12 A. They did.

13 Q. Was any indication of child pornography or peer-to-peer
14 technology found at that time?

15 A. No.

16 Q. Where was the defendant at that time?

17 A. He was in New Jersey.

18 Q. Was he a minor at that point?

19 A. I believe he may have been 17.

20 Q. Okay. And did the FBI in New Jersey follow up?

21 A. I believe they did what they could in terms of checking
22 if there was any activity associated with the address where
23 Mr. Webster was in New Jersey.

24 Other than that, I'm not aware of what else they had
25 done.

P. WOLPERT - DIRECT

8

1 Q. And they were unable to charge him at that time?

2 A. Correct.

3 Q. Now, let's talk about the current investigation.

4 This involves the Dark Web, correct?

5 A. Correct.

6 Q. Could you tell the Court a little bit about what the Dark
7 Web is?

8 A. The Dark Web is -- it's not like your typical internet,
9 even though when you access it, it runs the same way but it's
10 an encrypted network, it's layered. There's no traditional
11 methods of tracking origination of activity and who is
12 actually on there.

13 Q. And so it's more difficult for law enforcement to
14 identify users on that?

15 A. Correct. There is no known -- yeah, there's no way to
16 pinpoint where somebody is.

17 Q. In this particular case, several agencies, international,
18 national, had to work together to try to identify
19 Mr. Webster; is that right?

20 A. Correct.

21 Q. Do you know how many websites that Mr. Webster was
22 involved on on the Dark Web that were dedicated to child
23 exploitation?

24 A. Not exactly the number. It was at least five or six.

25 Q. What were these websites?

P. WOLPERT - DIRECT

9

1 A. They were all dedicated to the trading and discussion
2 about child exploitation.

3 Q. Were they private or could anyone join?

4 A. Yes, anybody can join, but they have different levels of
5 access. So depending on the amount of activity that you
6 conduct, you may get access to other parts that just
7 somebody -- like, if I logged into the site right now, I
8 would get a lower level access. I would have to conduct
9 activity to gain access to upper levels.

10 Q. What do you mean, "activity"?

11 A. Either posting images, or some of the websites it's just
12 basically commenting; the more comments you make and likes on
13 the site can elevate you because they know you're active on
14 the site.

15 Q. Now, during the search warrant involving the immediate
16 case, did you interview Mr. Webster?

17 A. I did.

18 Q. And did he say anything about trying to get VIP status?

19 A. When I was asking him about some images that we believed
20 were produced by his particular screen name, he admitted that
21 he made these images and it was for the purpose of getting
22 VIP status to a particular site.

23 Q. And "VIP status", does that get you more access to
24 different, I guess, rooms and things like that?

25 A. It gets you more access to others that are not publicly

P. WOLPERT - CROSS

10

1 putting out their produced material, or bigger collections.

2 Q. Were the images that Mr. Webster produced found anywhere
3 outside of his home?

4 A. Yes.

5 Q. Where -- or how did law enforcement know that?

6 A. Other individuals that were arrested that were connected
7 to the site, it was located in their collection, as well as
8 undercover agents had also downloaded it from the website.

9 MS. YUSI: I believe those are all my questions at
10 this time, Your Honor. Thank you.

11 THE COURT: Thank you. Any cross?

12 MR. BONILLA: Yes, Your Honor. Thank you.

13 CROSS-EXAMINATION

14 BY MR. BONILLA:

15 Q. Good morning, Mr. Wolpert.

16 A. Good morning.

17 Q. When you conducted the 2012, or have knowledge of the
18 2012 FBI investigation, there was not enough information for
19 a search warrant?

20 A. Correct, that's what I was told, yes. I did not conduct
21 that. I wasn't aware of it until we had done the search
22 warrant this time.

23 Q. Okay. And as far as you know, there was no child
24 pornography found on the computers at that time?

25 A. Not at that time, yes.

P. WOLPERT - REDIRECT

11

1 Q. Okay. And Mr. Webster was not charged with any offense
2 during that time, correct?

3 A. Correct.

4 I mean, he wasn't there when they conducted their
5 knock-and-talk, but he had not been charged, ultimately, from
6 that part of their investigation.

7 Q. And then, with regard to the investigation that leads us
8 to what he pled guilty to, the production, you interviewed
9 Mr. Webster?

10 A. I did.

11 Q. And he waived his Miranda rights?

12 A. He did.

13 Q. And he admitted and accepted responsibility for the
14 production of the child pornography?

15 A. He did.

16 Q. And he admitted to the use of all the screen names that
17 were referenced with regard to the various websites, correct?

18 A. Yes.

19 Q. He also admitted producing sexually explicit images;
20 isn't that correct?

21 A. Correct.

22 MR. BONILLA: No further questions.

23 MS. YUSI: Can I ask one -- two follow-ups?

24 REDIRECT EXAMINATION

25 BY MS. YUSI:

P. WOLPERT - REDIRECT

12

1 Q. For the forensic analysis of the computers that were
2 seized during your search warrant, was there activity, child
3 pornography activity all the way back to 2012 on those?

4 A. If it's in my report. Yeah, it was -- it went back
5 several years.

6 Q. Okay.

7 And then, in addition to admitting to producing
8 images and things, did he also talk about warning others on
9 the site?

10 A. Yes. A review of his posts indicated that he had posted
11 news articles about others that were arrested for being
12 involved in child exploitation, so he found those articles or
13 those court documents online and posted them on the Dark Web
14 site.

15 MS. YUSI: Thank you.

16 Your Honor, that's it.

17 THE COURT: Thank you. You may step down.

18 MR. BONILLA: Just a brief cross, Your Honor.

19 THE COURT: Wait a minute, hold on a second.

20 MR. BONILLA: Oh, I'm sorry.

21 THE COURT: I didn't know you were about to do a
22 recross. I will give you one question.

23 MR. BONILLA: Yes, Your Honor.

24 THE COURT: Go on.

25 RECROSS-EXAMINATION

1 BY MR. BONILLA:

2 Q. Mr. Webster also gave you permission to use his online
3 presence as well as with his password, correct?

4 A. He did.

5 MR. BONILLA: Nothing further. Thank you, Your
6 Honor.

7 THE COURT: Now you may step down.

8 MS. YUSI: I have no further evidence, Your Honor,
9 just argument.

10 THE COURT: Okay, let's move to your argument.

11 MS. YUSI: Thank you, Your Honor.

12 As we asked for in our position paper, we are
13 requesting 360 months, which is the statutory maximum, but we
14 believe that Mr. Webster is completely deserving and it's not
15 greater than necessary under the 3553 factors and the
16 purposes of sentencing.

17 THE COURT: Let me ask you a question.

18 MS. YUSI: Yes, sir.

19 THE COURT: Did you read the forensic
20 neuropsychological evaluation?

21 MS. YUSI: I did, Your Honor.

22 THE COURT: And do you put any -- give that
23 particular document any weight or credit in your assessment
24 of what --

25 MS. YUSI: Your Honor, I have several comments that

1 I was going to --

2 THE COURT: Whether the statutory maximum should be
3 imposed?

4 MS. YUSI: Your Honor, I found this very -- I don't
5 find it to be given much weight at all. I find it more of a
6 social history of Mr. Webster, and it does not talk about the
7 risk that he poses to the community.

8 Or what I would like to see and what I think should
9 be in every single one of these cases is a psychosexual
10 evaluation by someone who is an AXA, or Association for the
11 Treatment of Sex Abusers Member who qualifies to give a
12 psychosexual evaluation to talk about relevant factors that
13 this Court should know about in terms of what risk that they
14 pose to the community in the future after release.

15 In this particular one, this is not -- he calls it a
16 forensic neuropsychological evaluation of Mr. Webster. And
17 it talks about he, I guess, talked to his mother to try to
18 corroborate the veracity of some of the statements that
19 Mr. Webster said.

20 I know he was allowed to see the PSR, I believe, and
21 I know some of the discovery was given to him.

22 He did not ask to look at any of the images, that I
23 recall, nor did he contact the government to try to clarify
24 some of this. But I found that some -- a lot of the things
25 that were said were self-serving and not necessarily

1 accurate.

2 He's talking about in 2012 he was collecting as much
3 adult pornography as possible. If you see in the PSR, his
4 earliest -- the earliest, I guess, relevant conduct was 2012,
5 and that was based on -- I believe it was 2012. I'm just
6 looking for the date. But that's based on the forensic
7 analysis and that there were child pornography activities.

8 If you see the forfeiture order before you, Your
9 Honor, there's three computers, I think four or five SD
10 cards, an external drive, two cellular devices.

11 He has been involved with this for a very long time
12 and some of it went back all the way to 2012.

13 I'm sorry, it says "Relevant Conduct 2014" in the
14 PSR, but the forensic information goes back to 2012.

15 And then on Page 5 of the Social History Report, he
16 talks about faking the images that he produced, that this
17 wasn't semen on the child's anus and buttocks, but that it
18 was coconut oil. However, he's not talking about the videos
19 where he's inserting his finger into the child's anus.
20 That's not fake, nothing about this is fake.

21 And if he can tell himself that, that's fine, but
22 it's not truthful, especially with the report that is
23 supposed to help him during sentencing.

24 We also found on Page 7, when it's talking about
25 mood and personality and that the clinical scales are

1 uninterrupted because due likely to overreporting.

2 So, of course, someone is going to make themselves
3 in the best light, or talk about, perhaps exaggerate their
4 issues, whether it's socially or mental health wise in order
5 to do this.

6 I have nothing to say that he doesn't qualify to be
7 on the Autism Spectrum Disorder, Your Honor, but he also
8 notes that it's without accompanying intellectual impairment.

9 There's no intellectual impairment here to try to
10 mitigate his role in this offense.

11 I also find that in the conclusion, which just talks
12 about, you know, perhaps how he ended up here, or mitigating
13 factors how he ended up here.

14 I think that, in terms of risk factors, it talks
15 about him being vulnerable, likely to be coerced into
16 escalating his behaviors related to the instant offense.

17 I mean, we have to look at all of the different
18 decisions that Mr. Webster chose to do in order to be here
19 today, Your Honor.

20 And while he is a very young man, it is very
21 disturbing that he is this far escalated on the Child
22 Exploitation Spectrum in terms starting with peer-to-peer and
23 then moving on to the Dark Web, which is a pretty
24 sophisticated technology that he was able to pretty much
25 master and find all of these different sites, become members

1 of these sites to figure out how to move up on the echelon of
2 these sites.

3 And so I really find this, while, you know, a lot of
4 this information, at least socially, is in the PSR, I don't
5 find it very helpful for the Court or for the government to
6 try to evaluate what would be appropriate.

7 As we heard from Agent Wolpert about the Dark Web,
8 and this is more sophisticated, Your Honor, and we are
9 talking about a young man who has already been there.

10 His mother knew about the issue and presumably he
11 knew that the FBI came in 2012 and he moved to the Dark Web,
12 which gives some level of an anonymity and makes it very hard
13 for law enforcement to get a control on these websites and
14 these communities that are sitting there baiting each other.

15 I mean, Mr. Webster and others on there find other
16 like-minded individuals who basically can rationalize what
17 they are interested in, the sexual abuse of children, and
18 encourage each other to make these things in order to get new
19 and different images on there.

20 And what this left was Mr. Webster choosing to
21 sexually abuse a 2-year-old, to putting his watermark, his, I
22 guess, handle, or stage name or his -- his nom des in order
23 so everyone knew that these were his images in order to get
24 more recognition in this community online.

25 And beyond that, he had over 110,000 images on all

1 of those different items that are on the forfeiture, Your
2 Honor, that I briefly listed. And, as this Court pointed
3 out, there were 39 Victim Impact Statements of known victims.
4 Obviously there were many, many, many other victims.

5 But that's honestly one of almost every single
6 Victim Impact Statement that is available to courts that was
7 provided.

8 He was just massively involved with this and we
9 obviously agree with the report by the doctor that he does
10 need treatment and he does need help. He obviously has
11 several issues to deal with, whether it be physical, or
12 mental and socially. But we're here because he chose to go
13 onto these sites.

14 And, granted, he could have been just charged with
15 trading and receiving those, but he took it a step further in
16 order to get VIP access, with what he called "fake images."
17 And, Your Honor, there is nothing fake about these and it
18 happened not just once, but on several different occasions.

19 You can look at the videos and the images and the
20 boy is not just sleeping, the boy is awake at some point
21 during -- the 2-year-old, and who knows what's going on.

22 He had no jobs, but he obviously had means to
23 collect the electronic media and means to know how to get on
24 the Dark Web and how to find the websites, how to get
25 membership into these groups, and he did it for years.

1 And, as this report does suggest, he was willing to
2 do anything to be a part of this community, even molesting a
3 2-year-old. They weren't fake, he was touching them.

4 And given the gift, I believe, that he got from the
5 government allowing him to just plead to a 30-year cap and
6 having that cap, he will still have time, after he gets out,
7 to be a productive member of society.

8 But, because of the extent of his criminal activity,
9 his use of the sophisticated technology, his use of a
10 2-year-old to help him in this sick community that he was
11 involved with, and the number of victims that are in the
12 related conduct and the risk he poses, we are asking for
13 30 years, Your Honor, and we believe that is appropriate
14 under the 3553 factors.

15 THE COURT: Thank you very much.

16 MS. YUSI: Thank you.

17 THE COURT: Mr. Bonilla.

18 MR. BONILLA: Thank you, Your Honor.

19 Your Honor, we believe that the Court should give
20 significant weight to the neuropsychological report that was
21 prepared by Jonathan DeRight.

22 It really takes the Court to an understanding as to
23 Dashawn Webster, a young man who is only 21 years old at the
24 time that this offense originated. And that report is
25 significant because it provides information about his

1 background, his mental health, which is a significant factor
2 in this particular case, Your Honor. And I'll go more into
3 that as I discuss and argue for the appropriate sentence.

4 Your Honor, before I begin, though, I would like to
5 introduce that I do have at counsel table Mr. Kimball,
6 Supervisory Attorney for the Federal Public Defender's
7 Office, as well as Dashawn Webster, our client, and, of
8 course, Ms. Wanda Rivera, our investigator.

9 And also in the courtroom, Your Honor, we do have
10 Ms. Ruth Bell, my client's mother, Your Honor, and she is
11 here also in support of Dashawn, as well as Ms. Amy Hurd, one
12 of our investigators in our office, Your Honor.

13 Your Honor, I ask the Court for some indulgence as I
14 go through this argument as to the importance of what is at
15 stake for Dashawn.

16 As indicated, he's a young man that faces a lengthy
17 prison sentence, Your Honor, and I want to carefully address
18 his personal history and characteristics in light of the
19 reason why we think that a sentence of 30 years, the maximum,
20 Your Honor, is overly punitive, and a sentence of 15 years is
21 sufficient but not greater than necessary.

22 The fact that Ms. Bell is here and that she's been
23 in communication with her son I think is profound, because it
24 speaks volumes of forgiveness of her son, which is difficult
25 for her, I'm sure, and difficult for her son Dashawn, Your

1 Honor.

2 The government seeks a sentence of 30 years. Your
3 Honor, we argue that a sentence of 30 years is overly
4 punitive, it's excessive. It provides no incentive for
5 acceptance of responsibility and pleading guilty to only get
6 the maximum sentence in the end. It ignores the personal
7 history and characteristics of Dashawn.

8 And as the Court is aware from reading the
9 pleadings, he was conceived by a mother who was raped when
10 she was only 14 years old. He was sexually molested and
11 sexually abused himself.

12 He was mentally, emotionally, and physically abused
13 and tormented. He was badly bullied in school, such that he
14 had dropped out. He attempted suicide when he was only
15 13 years old.

16 He suffers from a number of mental health issues
17 such as depression, Autism Spectrum Disorder, a learning
18 disability, and very serious physical health issues. He's
19 even resorted to self-degradation, isolation, drugs and
20 activities on the internet as a way of trying to escape his
21 world of pain.

22 It ignores a sentence of 30 years, it ignores the
23 neuropsychological report that the defense filed with regard
24 to his history of sexual trauma and the issues that I've
25 listed.

1 It ignores that Dashawn, when he was approached by
2 law enforcement, instead of doing what some do, and there's
3 nothing wrong with invoking your Fifth Amendment right not to
4 incriminate yourself with requesting to speak to an attorney.
5 Dashawn didn't do that.

6 He immediately yielded to the authority of law
7 enforcement, he admitted to his wrongful conduct, he provided
8 them his presence -- online presence name and password so
9 that way they could -- he was trying to help in trying to get
10 other people found and arrested with regard to this stuff
11 because he felt badly about it.

12 Mr. Dashawn, he convicted himself when he admitted
13 to his wrongdoing with law enforcement before he even pled
14 guilty.

15 So we ask the Court to take that into consideration,
16 because that should count for something, when someone owns up
17 to it immediately and accepts responsibility.

18 Your Honor, if there was any particular case where
19 the mandate to impose a sentence that is sufficient but not
20 greater than necessary hits home and reaches our
21 sensitivities, it's in Dashawn's case; it's in this case,
22 Your Honor.

23 He's going to be put on a term of supervision. He's
24 not going to be a danger to the community, he's a Criminal
25 History Category I. He's never spent one day incarcerated.

1 He has no juvenile or adult convictions, his total
2 criminal history score is zero.

3 With regard to factors that the Court must consider,
4 a term of 15 years is sufficient to promote respect for the
5 law, provide for just punishment for someone like Dashawn.

6 In terms of deterrence, Your Honor, a large prison
7 sentence -- longer prison sentences were associated with a
8 three percent increase in recidivism compared to shorter
9 sentences.

10 A longer sentence doesn't necessarily connote with
11 recidivism that is going to happen, and we don't believe that
12 that is the case in this case with Dashawn. A 15-year
13 sentence adequately addresses deterrence in this case.
14 Dashawn is already specifically deterred, he's convicted
15 himself.

16 Your Honor, before you sentence a young man who is
17 23 years old, who is broken, who's contrite, while others
18 have forgiven him, even his mother being here in court today,
19 Dashawn is having a difficult time forgiving himself, Your
20 Honor, and I think that counts for something as well.

21 Dashawn is not a danger to the public, Your Honor.
22 A 15-year sentence will adequately give him time to get the
23 mental health treatment, the medication management, the
24 counseling that he needs, so that way he can be a productive
25 member when he comes out and he's released from the BOP.

1 But when he's released, he will be on a term of
2 supervision.

3 The Sentencing Project notes, Your Honor, that more
4 severe sentences fail to enhance public safety.

5 Dashawn is unlikely to pose any future danger to the
6 public once released. 15 years is enough time; he will get
7 the help that he needs while he's incarcerated. He will get
8 needed educational/vocational training in addition to the
9 medical care and correctional treatment that he needs.

10 With regard to specifically, Your Honor, the
11 personal history and characteristics.

12 Dashawn is 23 years old because he was born 23 years
13 from today, but mentally he's not a 23-year-old young man.
14 He was 21 when this offense occurred, but mentally he was
15 younger than that.

16 His mother described him, as noted in the PSR at
17 Paragraph 50, that Dashawn has the mind of a child. The
18 physical, emotional, sexual, and mental abuse that Dashawn
19 faced and suffered during his short life on this Earth has
20 been overwhelming, and it's appropriately documented in the
21 PSR, as well as in the neurological report of Dr. DeRight.

22 His mother, she was raped, he was conceived from
23 rape, she was only 14 at the time. That was Dashawn's
24 introduction into the world, that was his start at life.

25 She was unable to take care of him, so he was raised

1 by his mother's adoptive parents, and he grew up to know and
2 loves his grandparents, Elizabeth Bell, who passed away, and
3 Ernesto Santiago. He came to know them as his grandparents.

4 He was primarily raised by them in New Jersey from
5 the age of 5 to 13, and only had sporadic contact with his
6 mother while growing up.

7 Mr. Webster loved his grandparents, Your Honor, he
8 craved the nurturing of his mother, though, because she
9 wasn't there. And that's not a ping on his mother; she had
10 her own struggles that she was dealing with. But while she
11 was dealing with those struggles, Dashawn was severely
12 struggling himself.

13 When he was only nine years old, he was sexually
14 molested. In an attempt to make himself be less attractive
15 to the abuser, he drowned himself in food and he binge ate.

16 He grieved in silence, he struggled and never got
17 the help that he needed by counseling and treatment and
18 medication management, and the sexual molestation led to
19 binge eating.

20 The binge eating led him to being bullied. The
21 bullying led him to wanting to kill himself and take himself
22 from this world of struggle.

23 Dashawn was cleaving to the one thing that he had in
24 life, was his grandparents. That's something that was
25 consistent, honest, and loving.

1 He struggled with the rapid deterioration of his
2 grandmother due to dementia. He was only 13. So things even
3 get worse for him progressively. He feels overwhelmed,
4 helpless, hopeless, and he tried to overdose using his
5 grandmother's prescription medication and was hospitalized as
6 a result.

7 It continued with the incessant bullying at school,
8 which led him to drop out. And then what did he do? He
9 isolated himself from the world. He was screaming for help,
10 saying take me out of this world, help me to deal with this.
11 And where did he find that?

12 And it's not that it's not an innocent excuse or
13 justification, but he found that in a virtual world, a world
14 where he didn't have to have that permanent human
15 interaction. And that's discussed in detail in Dr. DeRight's
16 report.

17 And that goes along with his Autism Spectrum
18 Disorder, where he has the mindset where he's ostracized,
19 he's trying to get rid of or stay away from the reality that
20 is plaguing him and, at the same time, he's got this mental
21 disorder where he has to have things of a repetitive nature;
22 going back on the internet, finding that refuge in the
23 internet, in that virtual world.

24 Again, the issues and the hurdles that
25 Mr. Webster -- that Dashawn has had to experience is

1 overwhelming.

2 As the Court is aware that the United States Supreme
3 Court has given legal weight to neurobiological and
4 sociological studies that confirm that a lack of maturity and
5 an underdeveloped sense of responsibility are found in youth
6 more often than in adults.

7 In the case *R.A.M. v. Florida*[sic], Your Honor,
8 neurobiological evidence is convincing, specifically that
9 young adults lack full development of the areas of the brain
10 that support self-monitoring and the evaluation of self-risk.

11 And that is further detailed in the report by
12 Dr. DeRight, that age matters, right?

13 That, in this particular case, it is a mitigating
14 factor. That although Dashawn was 21 at the time, he wasn't
15 21 mentally because of his Autism Spectrum Disorder.

16 So we ask the Court to consider that and the
17 arguments that we raised in our pleadings.

18 The heart of retribution rationale is that a
19 criminal sentence must be directly related to the personal
20 culpability of the criminal offender. That's in *Tison v.*
21 *Arizona*, Your Honor, 481USC137 (1987).

22 We ask the Court to consider that because, again,
23 Dashawn is a young man, and younger than his age. He has
24 lesser culpability than some who don't have the type of
25 disorders that he has.

1 Physical health, Your Honor. Dashawn is 6-foot-1
2 and he weighs more than 400 pounds. He suffers from high
3 blood pressure, asthma, he uses an inhaler, he's seen a
4 cardiologist in 2013, Dr. Patel, for chest pains and
5 shortness of breath. Suffers from severe nose bleeds and
6 arthritis in his knees, and he has indicated that he has had
7 issues seeing, made partially blind in his left eye.

8 Mental and emotional state, Your Honor -- and I've
9 gone through the mental aspects of it but, again, we ask the
10 Court to strongly consider his mental health and emotional
11 state. He has blamed himself for this, he's remorseful, he's
12 broken.

13 In January and February of 2015, Dashawn reached out
14 to a suicide prevention hotline because he was significantly
15 impacted by the death of his grandmother, who raised him.

16 Since he's been placed at the Western Tidewater
17 Regional Jail, he's been prescribed medication for
18 depression. So this is ongoing.

19 Dashawn's biological mother is noted in the PSR
20 stating that she was in the process of setting up mental
21 health evaluation for Dashawn at the time that he was
22 arrested, but he just didn't get that help.

23 Dashawn has been visibly depressed, unable to sleep,
24 and it's just been a difficult process for him, Your Honor.
25 And he feels bad for the victims in this case, Your Honor.

1 Not just for himself, but for all of those, the victims and
2 all of those who are struggling, his family, his mother and
3 his stepfather, Mr. Skinner, who couldn't be here today but
4 wanted to be here.

5 In terms of substance abuse -- and I'll wrap it up,
6 Your Honor, with just a few more points.

7 In terms of substance abuse, he experienced
8 marijuana when he was 17, tried heroin when he was 18. He
9 abused prescription medication when he was only 11 years old.
10 Again, he used his grandmother's prescription medication to
11 try to take his life.

12 He was harboring the abuse that he was suffering,
13 Your Honor, and he was trying to mask it and self-medicate.

14 In terms of educational and vocational skills, he
15 does have a learning disability, Your Honor.

16 He was in elementary classes in New Jersey for
17 children with a learning disability. He attended IC Norcom
18 High School up to the 10th grade, but withdrew at that time
19 as a result of bullying and all the other issues he was
20 suffering from.

21 He does desire to obtain his GED, Your Honor.

22 In terms of employment, he was unemployed at the
23 time of the arrest. He couldn't go anywhere, didn't want to
24 go anywhere. He didn't want to leave his home and go in to
25 and have to deal with the realities of the world that he was

1 facing outside of the virtual world.

2 So, again, Your Honor, just in closing, we do ask
3 the Court to consider these factors, all of these factors:
4 The fact that he accepted responsibility from the onset, that
5 he waived his Miranda rights, that he cooperated
6 significantly with the prosecution of this case against him,
7 which is very serious. He had no idea, at the time that he
8 had cooperated, the severity of the penalties that were at
9 stake.

10 And we ask the Court to consider the cases that we
11 cited in our pleading, and I will just highlight one. *The*
12 *United States v. Ortiz-Graulau*, 526 Fed.3d. 16, 17 to 18, 1st
13 Circuit 2018, where a 38-year-old defendant had sexual
14 relations with a 14-year-old, photographs of the child were
15 taken, over 50 photos, and he was sentenced to 180 months.

16 THE COURT: The Court read it.

17 MR. BONILLA: Thank you, Your Honor.

18 Dashawn is a low risk for recidivism, Your Honor.
19 After he does -- if Your Honor imposes a term of 15 years, he
20 will be on supervised release for a period of time. That
21 will protect the public. He will be required, as a must, to
22 register as a sex offender. That will protect the public.

23 So in closing, Your Honor, we do ask the Court to
24 impose a sentence of 15 years followed by a term of
25 Supervised Release.

1 We ask that he get the mental health counseling and
2 vocational training that he needs while in the BOP, as well
3 as residential drug abuse treatment, Your Honor.

4 We do ask that Dashawn be placed at a BOP facility
5 as close to the Tidewater area as possible, because seeing
6 his family is part of the healing process.

7 He is a young man and he needs them to move forward
8 in his life and to be able to bounce back. When he's
9 released from the BOP, if he's given a 15-year term, Your
10 Honor, he will be in his late 30s. And so he will be a young
11 man still with an opportunity to further change his life
12 around and be a productive member.

13 Thank you, Your Honor.

14 THE COURT: Thank you.

15 MS. YUSI: Your Honor, may I briefly say something?

16 THE COURT: Briefly.

17 MS. YUSI: Your Honor, the history and
18 characteristics of the defendant is just one aspect that this
19 Court considers, and we are not here because the defendant is
20 the victim here, that the defendant has had hardship, and
21 he's not the victim in this case.

22 And if the Court wanted to consider the doctor's
23 report with great weight, I wish that the doctor was here and
24 that we could cross-examine him on some of the incongruities,
25 and maybe we could ask the doctor how this is going to affect

1 a 2-year-old who is going to be living with this all of his
2 life, and knowing that his images are all over the internet
3 at this point because of the victim.

4 The 2-year-old is the victim, the victims of the
5 other guys' who were producing these to get in there to
6 impress their friends, warn their friends about police
7 involvement in this to try to make sure that they are hiding
8 better from this.

9 The defendant is not the victim in this case, Your
10 Honor.

11 Thank you.

12 THE COURT: All right, step to the podium,
13 Mr. Webster, with your counsel.

14 If you wish to make a comment, you may do so.

15 MR. BONILLA: Your Honor, I'm sorry, he's just
16 trying to catch his breath, he's having a hard time breathing
17 right now.

18 (Pause.)

19 THE COURT: Was Mr. Webster going to read something?

20 MR. BONILLA: Yes, Your Honor.

21 THE COURT: I will permit counsel to read it for him
22 if you cannot read it.

23 MR. BONILLA: He wants me to read it, Your Honor.

24 THE COURT: Fine. Please read it, Mr. Bonilla.

25 MR. BONILLA: To Judge Jackson. I would like to

1 formally apologize, not just to the Court but to the State of
2 Virginia for my actions to conspiring with the wrong people
3 and getting the victim involved in the situations that led me
4 in your presence today.

5 I would also like to apologize to my mother for the
6 crimes that I committed. My mother accepted and given
7 forgiveness. And towards the victim, I know it is hard
8 seeing me here in this situation. Even with the victims,
9 knows it will be difficult without my presence and forgives
10 me.

11 My family has never left my side and has been
12 supportive since being incarcerated, but knowing also what I
13 done took me away from their grasp, even though nothing can
14 break the everlasting love they still have for me.

15 I hope and pray that you have mercy on me today,
16 knowing the things I've done will never happen again, and ask
17 to get me the help that I need to be a better person, because
18 I'm not a violent man and want to live a life not being
19 looked down on as one.

20 I also hope that I can continue to help in any way
21 possible to find other people who deserve judgment, too.

22 THE COURT: Thank you.

23 Mr. Webster, you are here for a rather heinous
24 offense. You didn't rob or kill anybody, but you committed a
25 truly objectionable offense. You pled guilty to Production

1 of Child Pornography.

2 This record reflects, of course, that you engaged in
3 sexual exploitation of a 2-year-old, your 2-year-old
4 half-brother that you were supposed to be babysitting.

5 This conduct was part and parcel of sustained
6 involvement in child pornography, and what the Court's been
7 able to understand here, not just that incident, but for
8 years you had been viewing child pornography and in this case
9 it's indicated you had over 110,000 images, some 75 videos.

10 You were deeply into child pornography and the
11 record reflects that you were involved in a way that made
12 your detection of your conduct very difficult.

13 You were on the Dark Web, on the Dark Web engaging
14 in -- these videos range from a couple of seconds to a few
15 hours, maybe about four hours sustained exploitation.

16 Now, the Court is required to consider your personal
17 history and background and to set your criminal conduct in
18 the context of your personal history.

19 You've been engaged in this conduct for a few years.
20 You are now 22 or 23?

21 THE DEFENDANT: 23.

22 THE COURT: 23. So you've been engaged in this
23 conduct since you were a teenager. So you've gotten to be
24 very good at hiding your conduct and engaging in it.

25 The record reflects that you have no relationship

1 with your biological father, and the Court has already heard
2 the circumstances under which you were born, but you were
3 raised primarily by your grandparents.

4 The record also reflects that you have some
5 siblings, but the record reflects that you had a truly
6 troubled childhood being emotionally, physically, sexually
7 abused as a child yourself, so you were introduced to child
8 molestation.

9 And it is often the case that those who are molested
10 become molesters in your own way here.

11 In addition, the record reflects that you had a very
12 tough time in school. You withdrew from school in the tenth
13 grade, never did get a GED largely because of, you say, of
14 the bullying and the weight that you carried, and the weight
15 caused you to have other problems.

16 You became -- you withdrew and engaged in activity
17 that was truly damaging to you and to others. Because of
18 your lack of education and your emotional circumstances, you
19 have no record of employment, just no record.

20 Physically you have serious medical problems. Over
21 400 pounds, asthma, high blood pressure, hypertension, any
22 number of ailments that would go with your weight.

23 Now, there's been a big debate about how the Court
24 should consider the forensic neuropsychological evaluation
25 that was done on you.

1 The Court read that report with interest, with keen
2 interest, to see exactly who you were.

3 There's no question about it, your childhood had a
4 severe impact on who you are and what you've been doing.
5 This was not a psychosexual evaluation that the Court has
6 sometimes seen in these cases. It clearly provides to the
7 Court insight on who you are and your thinking and what, in
8 effect, compelled you.

9 But the Court finds it interesting that it said that
10 you had a learning disability. The Court had some question
11 about this learning disability, because obviously you
12 function at a very high level here. You have extraordinary
13 technological and computer skills.

14 So just because you didn't do well in school, and
15 the Court has seen it too many times, doesn't mean you have a
16 learning disability. Unfortunately, for society, for people
17 that cannot cope, students they cannot cope with, often
18 African-Americans, they declare "learning disabled" and move
19 on.

20 Meanwhile, you are as smart as you want to be but
21 you are left behind, and I think that's you. This record
22 reflects an awareness here of your criminality because you
23 get on the Dark Web and you start warning others about the
24 criminal activity. So the Court doesn't really believe that
25 you are severely learning disabled. No, you are learning

1 ignored in school, but you are exceptional in your own way,
2 and you simply withdrew into your own world of criminality to
3 get away from people who abuse you, laughed at you, made you
4 feel bad.

5 You have no record the Court can find here, no
6 juvenile record, no criminal record.

7 You have a history of abusing certain medications,
8 started back in 2006. The Court doesn't know that you are
9 going to qualify for the 500-hour Residential Drug Abuse
10 Program.

11 The Court will recommend it, but then they read this
12 Presentence Report, they may very well decide that you may
13 need drug education, but you do not need to be in that
14 500-hour Residential Drug Abuse Program. You need some other
15 things, but not that.

16 Now, the statutory maximum is 30 years, the minimum
17 is 15 years, the government asked for 30 years. The advisory
18 guideline was life.

19 The Court read with interest the reference to
20 sentences imposed on other individuals who committed these
21 offenses. It's no simple offense. The Court has to give you
22 a sentence that deters you, but also provides general
23 deterrence.

24 Now, the Dark Web is very interesting. I bet the
25 Dark Web knows that you are being prosecuted for production

1 of child pornography, they know that.

2 But they also need to know what sentence you
3 received as a result of doing it. And the Court understands,
4 as it sentences you, it has to weigh all these factors, and
5 the Court cannot entirely disregard your personal history and
6 background, it's too much here to disregard it, so the Court
7 has to put it in context.

8 The Court doesn't believe putting it in context that
9 the minimum sentence the Court can impose is appropriate. So
10 the Court cannot, or will not do that, but the Court will
11 certainly consider it. It has some impact on the reason that
12 you are who you are and why you are standing here right now.
13 No question about it.

14 You need mental health treatment, the Court will
15 provide for that. You need educational treatment, you need a
16 vocation, you need a whole bunch of things to straighten you
17 out, hopefully help you, Mr. Webster.

18 But the Court believes that you have the ability to
19 do more than is apparent, because the Court believes that you
20 are very, very smart, not very learning disabled.

21 It's kind of difficult to make restitution to
22 victims in these cases. The Court doesn't have anything
23 providing for restitution to victims here, and so we are not
24 going to be addressing that right now, but, believe the
25 Court, if we could find a way to make restitution to victims,

1 then you would be required to make restitution to certainly
2 specific victims in this case.

3 Now, having said all of that, the Court's been
4 listening at the argument of counsel. This is not a
5 situation where the Court simply decides to divide up things,
6 equal split; that's not where the Court's going.

7 The Court is trying to determine and has determined
8 whether it's appropriate to give you 30 years, the maximum
9 the statute allows, or to give some weight to the other
10 factors in this case, and I think the Court has to give
11 weight to other factors in the case, as well as the other
12 needs identified by Section 3553.

13 Having said all of that, the Court will sentence you
14 as follows:

15 Pursuant to the Sentencing Reform Act of 1984, it's
16 the judgment of the Court that the Defendant, Dashawn
17 Webster, is hereby committed to custody of the United States
18 Bureau of Prisons for a term of 290 months. Upon release
19 from imprisonment, you shall be placed on Supervised Release
20 for a term of 20 years.

21 You shall refrain from any unlawful use of a
22 controlled substance, submit to one drug test within 15 days
23 commencement on Supervised Release, and at least two periodic
24 drug tests thereafter, as directed by the Probation Office.

25 You shall also comply with the following additional

1 conditions:

2 You shall participate in a program approved by the
3 United States Probation Office for mental health treatment
4 that includes psychosexual evaluation and sexual offender
5 treatment.

6 Cost of these programs are to be paid by you as
7 directed by the probation officer.

8 You shall waive all rights of confidentiality
9 regarding sex offender and mental health treatment to allow
10 the release of information to the United States Probation
11 Office and authorize communication between the probation
12 officer and the treatment provider.

13 Mr. Webster, you shall submit to a polygraph testing
14 as directed by the United States probation officer as part of
15 your sex offender therapeutic program. Cost of this testing
16 is to be paid by you, as directed by the probation officer.

17 You shall submit to an able assessment for sexual
18 interest or similar tests as directed by the United States
19 Probation Office.

20 As part of your sexual offender therapeutic
21 treatment, cost of this testing is to be paid by you as
22 directed by the probation officer.

23 You shall not possess or use a computer to access
24 any online computer services at any location, including
25 employment, without the prior approval of the probation

1 office. This includes any internet, service provider,
2 bulletin board systems, or any other public or private
3 network.

4 You shall not utilize any sex-related adult
5 services, websites or electronic bulletin boards.

6 You shall submit any records requested by the
7 probation office to verify compliance with this condition,
8 including but not limited to credit card bills, telephone
9 bills, and cable, satellite telephone bills.

10 You shall not have any access to or possess any
11 pornographic material or pictures displaying nudity or any
12 magazines using juvenile models or pictures of juveniles.

13 You shall have no contact with minors unless
14 supervised by a competent, informed adult approved in advance
15 by the probation officer.

16 You shall not engage in any employment or volunteer
17 services that allow you access to computers or minors.

18 Pursuant to the Adam Walsh Child Protection & Safety
19 Act of 2006, you shall register with State Offender
20 Registration agencies in any state where you reside, work,
21 and attend school, according to the federal and state law and
22 as directed by the probation officer.

23 Pursuant to the Adam Walsh Child Protection & Safety
24 Act of 2006, you shall submit to a search of your person,
25 property, house, residence, vehicle, papers, computer, other

1 electronic communication or data storage devices, or media
2 and effects at any time by any law enforcement or probation
3 officer with reasonable suspicion concerning unlawful conduct
4 or a violation of a condition of supervision, upon prior
5 notification to and approval by the Court, or with a warrant.

6 You shall also comply with the Computer Monitoring
7 Program as administered by the Probation Office. You shall
8 consent to the installation of computer monitoring software
9 on any computer to which you have access. Installation shall
10 be performed by the probation officer.

11 Software may restrict and/or record any and all
12 activity on the computer, including the capture of
13 keystrokes, application information, internet use history,
14 email correspondence, and chat conversations.

15 A notice will be placed on the computer at the time
16 of installation to warn others of the existence of the
17 monitoring software. You shall also notify others of the
18 existence of the monitoring software.

19 You shall not remove, tamper with, reverse engineer
20 or in any way circumvent the software. Cost of this
21 monitoring shall be paid by you.

22 Let me say this. Of course, if you're not able to
23 pay all of these costs, the Court will take a look at it and
24 make the appropriate adjustments.

25 You shall consent to the use of WiFi detection

1 devices to allow the probation officer to detect the presence
2 of wireless signals inside or outside of your residence.

3 And the Court has looked at your financial
4 background, your lack of net worth, your liquid assets, your
5 lifestyle and your earning potential, and the lack of
6 dependents relying on you for support. The Court finds that
7 you are not capable of making payments for a full restitution
8 as mandated by statute.

9 The Court also finds that you are not capable of
10 paying a fine.

11 However, with respect to Count Three, you must pay a
12 Special Assessment of \$100. It's due today. Any balance
13 remaining unpaid on the Special Assessment at the inception
14 of your supervision shall be paid by you in installments of
15 not less than \$50 per month until paid in full, and such
16 payments shall commence 60 days after your supervision
17 begins.

18 The Court recommends to the Bureau of Prisons that
19 you be enrolled in an educational program. The Court
20 recommends to the Bureau of Prisons that you be enrolled in a
21 vocational education program.

22 The Court recommends to the Bureau of Prisons that
23 you receive mental health treatment.

24 The Court recommends to the Bureau of Prisons that
25 you be enrolled in the 500-hour Residential Drug Abuse

1 Program.

2 The Court recommends to the Bureau of Prisons, if
3 possible, to house you on or in or near the Commonwealth of
4 Virginia.

5 At the time you entered your plea, did he waive his
6 right to appeal, Mr. Bonilla?

7 MR. BONILLA: Yes, Your Honor.

8 THE COURT: All right. The Court will not advise
9 you of any right to appeal.

10 Ms. Yusi, are there other charges?

11 MS. YUSI: There are, Your Honor.

12 We move to dismiss those, and there is a Forfeiture
13 Order that is now before the Court.

14 THE COURT: On motion of the United States, the
15 remaining charges against the defendant are hereby dismissed.

16 The Court has a Forfeiture Order.

17 Now, Mr. Webster, did you sign that Forfeiture
18 Order?

19 THE DEFENDANT: Yes, Your Honor.

20 THE COURT: Did you discuss it with your counsel
21 before you signed it?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right, it's in the record.

24 The Court will have the neuropsychological report
25 forwarded to the Bureau of Prisons.

1 Is there anything else, Mr. Bonilla?

2 MR. BONILLA: Nothing further, Your Honor. Thank
3 you.

4 THE COURT: Okay, if there's nothing else, the Court
5 will be in recess until further notice.

6 (Whereupon, the proceedings conclude, 11:04 a.m.)

7 * * * * *

8 I certify that the foregoing is a correct transcript from the
9 record of proceedings in the above-entitled matter.

10 /S/
11 -----
12 Janet A. Collins, RMR, CRR, CRI

1/29/2019

13 DATE
14
15
16
17
18
19
20
21
22
23
24
25